



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CRIMINAL DIVISION
Office of Special Prosecutions

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September 10, 2024

Colonel Maurice Hughes
Director, Alaska State Troopers
Department of Public Safety
5700 East Tudor Road
Anchorage, Alaska 99507

Chief Derek Bos
Juneau Police Department
6255 Alaway Avenue
Juneau, Alaska 99801

Re: Use of Deadly Force Review, AST Case No. AK24069198

Colonel Hughes and Chief Bos:

This letter summarizes the review conducted by the Office of Special Prosecutions¹ of the incident involving the use of deadly force by Alaska State Trooper² Sergeant Branden Forst and Juneau Police³ Sergeant Christopher Gifford against Steven Kissack on July 15, 2024, in Juneau, Alaska. This analysis is based upon a review of the investigative reports related to this incident, along with the accompanying dispatch log, radio traffic, interviews, audio recordings, photographs, videos, and other evidence submitted to date.⁴ The purpose of OSP's evaluation in this matter is to determine whether either Sergeant Forst or Sergeant Gifford should face criminal charges for their use of deadly force during this incident.⁵

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1. The Office of Special Prosecutions is hereinafter referred to as OSP.
 2. The Alaska State Troopers are hereinafter referred to as AST.
 3. The Juneau Police Department is hereafter referred to as JPD.
 4. This review is based on the information provided at the time this letter was written. Information not previously provided to OSP for review may change the analysis in this matter.
 5. The purpose of OSP's review is solely to determine whether criminal charges against either law enforcement officer are warranted given their use of deadly force. OSP does not review these cases for policy violations or a determination of whether a law enforcement officer's conduct is appropriate under any applicable use-of-force policies. OSP also expresses no opinion as to the general appropriateness of any AST or JPD policies, including use-of-force policies.

After applying the governing law to the facts and circumstances surrounding this incident, OSP has determined that charges against either Sergeant Forst or Sergeant Gifford are not appropriate. For the reasons explained below, I have concluded that both officers were legally justified in using deadly force to defend themselves and others.

SUMMARY OF PERTINENT FACTS⁶

July 14, 2024 Assault

At approximately 6:45 AM on Sunday, July 14, 2024, JPD received a call regarding an assault that had occurred in downtown Juneau. One of the managers of the Marine View apartment complex reported that he had been assaulted by Mr. Kissack after asking Mr. Kissack to leave the property. Sgt. Gifford and other officers responded to the location of the assault to speak with the caller and Mr. Kissack, but by the time they arrived, Mr. Kissack was no longer in the vicinity. Sgt. Gifford observed items on the ground at the scene that he believed belonged to Mr. Kissack – including a backpack and at least one knife. Officers searched the area for Mr. Kissack but were unable to locate him. The items left behind as part of the investigation. The officers also collected video surveillance, which included audio, from the apartment complex. Sgt. Gifford described that the footage showed the manager talking to Mr. Kissack, and that one of the two men – it was unclear which – said “motherfucker,” and right after that, Mr. Kissack stood up, punched the manager in the face, and the two then got into a physical fight.

At approximately 3:00 pm that day, one of the detectives who responded to the Marine View apartments saw Mr. Kissack near the downtown movie theater that is located on Shattuck Way. As explained further below, Sgt. Gifford was aware, based on prior interactions, that Mr. Kissack’s behavior could be unpredictable, that Mr. Kissack had been violent during interactions with police officers in the past, and had been accused of threatening other people with knives. Although there was probable cause to arrest Mr. Kissack for the assault against the apartment manager, Sgt. Gifford was concerned for the safety of both officers and civilians if officers tried to take Mr. Kissack into custody in the middle of downtown Juneau on a summer Sunday afternoon. Sgt. Gifford discussed his concerns with his supervisors, and they decided that the best course of action would be to call the night shift into work early so that a larger team could be assembled to locate and apprehend Mr. Kissack. Given his knowledge of Mr. Kissack’s history, Sgt. Gifford included a negotiator and a de-escalation specialist as part of the team, with a member of Animal Control on standby to take care of Mr. Kissack’s dog if Mr. Kissack was apprehended. The team was unable to locate Mr. Kissack that night.

6. The facts contained in this letter are those that are relevant and necessary to inform you of the nature and extent of my review but do not represent the entirety of the investigation or the materials I have reviewed.

The next morning, July 15, Sgt. Gifford briefed the incoming shift about the reported assault and played the security camera footage for the officers. Officer Lee Phelps, Officer Timothy Kissner, and Officer Terry Allen were all in attendance at the briefing and watched the video before heading out on their patrol shift.⁷ All three officers had interacted with Mr. Kissack multiple times and had personally been involved in incidents where he either brandished a knife at them or became physically violent with them.⁸

July 15, 2024 Incident

Unless otherwise identified, the following summary is obtained from a review of the footage from the body cameras worn by responding officers.⁹ At approximately 1:11 PM on July 15, 2024, Officer Phelps observed a male he believed to be Mr. Kissack sitting in the doorway of 244 Front Street in downtown Juneau. Officer Phelps, dressed in a full JPD uniform, got out of his marked patrol car. Upon seeing that it was, in fact, Mr. Kissack, he radioed his location to dispatch and said he would be contacting Mr. Kissack. He approached Mr. Kissack to speak with him about the reported assault from the day before.

Officer Phelps said “*What’s happening, Steve?*” as he walked up to Mr. Kissack. Mr. Kissack sat cross-legged on the ground with a backpack in front of him to his left and his dog lying slightly behind him to his right. Mr. Kissack was twirling a fixed-blade knife¹⁰ in his right hand as Officer Phelps walked up to him. After greeting Mr. Kissack, Officer Phelps said, “*Question for you –*” paused, and said, “*While we chat, can you just put the knife down?*” Mr. Kissack responded, “*No,*

7. A warrant for Mr. Kissack’s arrest had not yet been applied for or issued.

8. Officer Allen, in particular, had extensive interactions with Mr. Kissack. When he was interviewed by investigators from the Alaska Bureau of Investigations, Officer Allen described that he had tried to help Mr. Kissack find long-term solutions to some of the problems he was experiencing. Officer Allen tried to help Mr. Kissack get housing and to connect him with community navigators. At one point, Mr. Kissack told Officer Allen he had a plane ticket out of town but was waiting for his license to arrive in the mail so he could fly. Officer Allen worked at the Juneau Airport on his days off and told Mr. Kissack that if Mr. Kissack were flying on a day that he was working at the airport, he would vouch for his identity and make sure Mr. Kissack could get on the plane. Mr. Kissack did not follow through with Officer Allen’s offers of assistance.

9. Five officers wearing body cameras responded to the scene. Given how close the five officers were to one another and to Mr. Kissack during the interaction, each individual body camera captures essentially the same series of events, starting from when that officer arrived on the scene. Therefore, the following description of events in this section is a comprehensive description based on a review of video footage from all five body cameras unless otherwise noted. Mr. Kissack was speaking throughout the entire sixteen-minute encounter, so all of his statements are not contained in this synopsis. Statements in quotation marks were transcribed with as much accuracy as possible after reviewing footage from all five body cameras. Where “[*unintelligible*]” is inserted in a quotation, the audio was not clear enough to understand the exact words being spoken by Mr. Kissack but indicates that Mr. Kissack was saying something unintelligible.

10. The knife was later recovered on scene and measured approximately eight inches in total; the blade measured was four inches.

that's alright. Why don't you back up from me a little bit, like the judge told you to."¹¹ Officer Phelps said he would not do that, and the conversation continued. During his later interview with investigators from AST's Alaska Bureau of Investigation,¹² Officer Phelps explained that he was comfortable continuing the conversation with Mr. Kissack because, at that point, Mr. Kissack did not seem to pose a threat to him – he was not agitated, he was sitting cross-legged on the ground, and the two were 6-8 feet apart.

The two had a conversation for slightly less than five minutes, during which Officer Phelps asked Mr. Kissack about the assault. Throughout this initial contact, Mr. Kissack seemed slightly agitated,¹³ but was not hostile. Mr. Kissack's demeanor stayed consistent and he remained seated, continued to twirl and fidget with his knife, and remained engaged in conversation with Officer Phelps. After the end of the five minutes, Officer Phelps told Mr. Kissack that assault charges were going to be filed against him in connection with the incident from the night before.

After Officer Phelps said this, Mr. Kissack began to get visibly upset but remained seated for about another minute before his demeanor suddenly shifted. He abruptly stood up and started moving toward Officer Phelps in a visibly hostile manner. While holding the knife in his hand, he said to Officer Phelps, *"I don't like the way you're looking at me; back up. Do you understand?"* Officer Phelps unholstered his firearm, pointed it at Mr. Kissack, and ordered him to drop the knife. Mr. Kissack responded to having the gun pointed at him by saying, *"What is that? Are you a little bitch. You're a little bitch."* About ten seconds after Mr. Kissack stood up, Officer Phelps radioed "10-69" to dispatch.¹⁴

During the next 45 seconds, Officer Phelps kept his weapon pointed at Mr. Kissack and ordered Mr. Kissack to put the knife down at least 15 times. At no time did Mr. Kissack comply with the orders or verbally or physically indicate that he intended to comply. Officer Phelps told Mr. Kissack that he was under arrest, to which Mr. Kissack responded, *"No, I ain't. I'll die."* followed by several more phrases that could not clearly be heard over the background noise, but that included Mr. Kissack saying *"I'll die"* at least two more times. Mr. Kissack continued to advance towards Officer Phelps with the knife in his hand while telling Officer Phelps that he was going to place Officer Phelps under arrest for assault. As Mr. Kissack kept advancing towards Officer Phelps, Officer Phelps warned Mr. Kissack that he would get shot if he didn't put the knife down.

11. During the incident, Mr. Kissack mentioned a judge telling officers to stay away from him. There are no known "no contact" orders between any members of JPD and Mr. Kissack, nor were there any judicial prohibitions preventing JPD from contacting him.

12. The Alaska Bureau of Investigation is hereafter referred to as ABI.

13. It appears in the video that, rather than looking directly at Officer Phelps during most of the conversation, Mr. Kissack was intently scanning his surroundings.

14. "10-69" is the radio code used by an officer when emergency backup is needed.

When Officer Phelps again reiterated that Mr. Kissack needed to put the knife down and told him he was under arrest,¹⁵ Mr. Kissack responded, *“I’ll die, and I’ll kill you [unintelligible].”*

A little more than 30 seconds after Officer Phelps radioed “10-69,” Officer Kissner, also dressed in a full JPD uniform, arrived on the scene in his marked patrol vehicle. In his interview with ABI, Officer Phelps told investigators that prior to Officer Kissner’s arrival, he believed Mr. Kissack was about to try and stab him, based on the way Mr. Kissack was advancing towards him with the knife. Officer Phelps explained that, due to this perceived threat, he had taken the slack out of his trigger, pointed it at Mr. Kissack’s chest, and was just about to shoot when Mr. Kissack turned away, seemingly distracted by Officer Kissner’s sirens.

Upon arrival, Officer Kissner stopped his patrol vehicle in the street near the intersection of Front Street and South Franklin Street. He got out of his car and ran down the sidewalk towards Officer Phelps and Mr. Kissack, shouting for Mr. Kissack to drop the knife. Mr. Kissack responded by turning away from Officer Phelps and directing his attention to Officer Kissner, saying, *“Don’t run at me.”* Officer Kissner ordered Mr. Kissack to put the knife down; Mr. Kissack responded, *“No.”* and continued to walk towards Officer Kissner with the knife in his hand. Over the next few seconds, Officer Kissner ordered Mr. Kissack to put the knife down multiple times. Mr. Kissack refused and continued to advance towards Officer Kissner. Officer Kissner backed up and partially shielded himself behind an SUV parked on the street. Mr. Kissack stopped advancing and told Officer Kissner to *“Stop freaking out, dumbass!”* After he said that, Mr. Kissack started tossing the knife slightly in the air and catching it while he commented that he was a *“professional knife thrower.”* Mr. Kissack continued yelling, saying, *“These motherfuckers pulled their guns out for no reason because they’re scared of me. They try and harass me, push me around, [unintelligible] to kill me. To kill me, that’s what it’s about! You want to run me ragged to kill me!”*

About a minute after Officer Kissner arrived, Officer Phelps again told Mr. Kissack to drop the knife. Mr. Kissack paused, looked at the knife, looked back at Officer Phelps, and calmly said, *“No. This is my favorite knife.”*

Two individuals, G.S.¹⁶ and A.H., who were friends with Mr. Kissack and known to the JPD officers, were on the same side of the sidewalk as Mr. Kissack when the incident began. Officer Kissner ran past them as he ran from his patrol car towards Officer Phelps and Mr. Kissack, and the two subsequently moved closer to Mr. Kissack. Based on their slurred speech and body language, both G.S. and A.H. appeared to be visibly intoxicated. About two minutes after Officer

15. Officer Phelps told investigators that he intended to arrest Mr. Kissack for Assault in the Third Degree based on his threatening conduct towards Officer Phelps.

16. Initials are used for civilian witnesses throughout this letter as identifying their full names in this publicly available document is unnecessary. *See generally* Alaska Constitution, Article I, sec. 22 (Right of Privacy).

Kissner arrived on the scene, G.S. stepped directly between Officer Kissner and Mr. Kissack and walked up to Mr. Kissack in an apparent effort to calm him down and convince him to drop the knife. A.H. repeatedly implored Mr. Kissack to “knock it off” and “drop the knife” from slightly further away. At least one other voice off-camera is heard yelling at G.S. to get out of the way and saying, “*Stop it, Steve! Put your stupid knife down!*”

While those surrounding him repeatedly asked Mr. Kissack to put down the knife, he verbally re-engaged with Officer Phelps, who in response, told him again that he was under arrest. Approximately 30 seconds after Mr. Kissack told Officer Phelps the knife he was holding was his favorite knife, the following exchange occurred:

Officer Phelps: *Steve, put the knife down; you're under arrest.*

Mr. Kissack: *No, I ain't; you're under arrest.*

Officer Phelps: *Steve, put the knife down.*

Mr. Kissack: *No, I'm serious. To the death motherfucker.*

Officer Phelps: *Steve, put the knife down.*

Mr. Kissack: *Do something. Do something. And stop approaching me the way you do when I tell you no, don't come over to me like that. The judge told you to stay away from me.*

About twenty seconds later, G.S. walked up to Mr. Kissack and put one hand on Mr. Kissack's left bicep and one hand on Mr. Kissack's back. Neither officers' audio captured what G.S. said to Mr. Kissack, but it appeared he was trying to convince Mr. Kissack to comply with the officers' orders. Mr. Kissack turned to G.S. and told him to “*back down, dude.*” G.S. hugged Mr. Kissack; Mr. Kissack told G.S., “*Hey, call my sister if they kill me. Because they're going to try and taze me and [unintelligible].*”¹⁷ G.S. walked away from Mr. Kissack but did not leave the scene. Mr. Kissack immediately turned his attention back to Officer Phelps and said, “*I'm always ready to die. I ain't a liar, I'm retarded.*” Officer Phelps calmly responded, “*Steve, you don't need to die. Nobody needs to die.*” Mr. Kissack continued yelling at Officer Phelps, including the following exchange:

Officer Phelps: *Steve, nobody needs to die, man. You just need to put the knife down.*

Mr. Kissack: *Yeah, people do need to die.*

Officer Phelps: *Nobody needs to die.*

Mr. Kissack: *Yeah, they do. They do need to die. So that maybe somebody doesn't need to die. And then what, what would that be? If somebody didn't need to die and then they died, and everything's better? What if death isn't even death to me and my religion?*

17. It is difficult to make out the exact words, but it sounds like Mr. Kissack said, “*I'm going to charge them.*”

The officers' interaction with Mr. Kissack continued in that manner for the next several minutes. Officer Phelps and Officer Kissner continually ordered Mr. Kissack to drop the knife while G.S. and A.H. repeatedly begged Mr. Kissack to comply with the officers' commands. Mr. Kissack ignored them and continued to yell; at various times he twirled the knife in his hand, fidgeted with it – at one point balancing it on his hand by the tip – or held it in a firm grip.

AST Sgt. Forst arrived at the location at approximately 1:22 PM. He was in his marked patrol truck and wearing his standard AST Wildlife Trooper uniform, which consisted of dark blue pants, a short-sleeved brown shirt, a ball cap that had "State Trooper" on it, and a jacket with a patch and badge on the chest. Upon his arrival, Sgt. Forst parked his truck behind Officer Kissner's patrol car, retrieved his patrol rifle from inside his vehicle, and walked towards Officer Kissner. As Sgt. Forst approached Officer Kissner from behind, he verbally identified himself as a Trooper. At the same time, Officer Phelps yelled a direct command to Mr. Kissack to drop the knife. Sgt. Forst radioed AST dispatch, which operates on a different frequency from JPD dispatch, and told them that there was a guy with a knife threatening people. At this point, Officer Kissner and Sgt. Forst were positioned behind an SUV on the north side of Front Street with their patrol vehicles parked in the intersection behind them. A.H. approached Sgt. Forst and Officer Phelps and told them he was trying to get Mr. Kissack to stop. He asked them not to shoot Mr. Kissack, but to "taze him or something" instead. Officer Kissner told Sgt. Forst who G.S. and A.H. were, and Sgt. Forst told A.H. to move behind his patrol vehicle. A.H. moved away slightly but did not move as far back as he had been directed.

About thirty seconds after he arrived and identified himself, Sgt. Forst attempted to verbally engage with Mr. Kissack. He yelled out to Mr. Kissack to drop the knife. While Sgt. Forst was holding his rifle, it was not pointed at Mr. Kissack. Mr. Kissack did not respond to Sgt. Forst, and continued yelling at Officer Phelps and Officer Kissner, saying, "*You guys are fucking pussies, why don't you go down to Florida to get your ass kicked*" as Sgt. Forst again tried to verbally engage with him. Sgt. Forst calmly addressed Mr. Kissack, and said, "*Hey, let's go ahead and drop the knife, ok?*" Sgt. Forst's rifle was still not pointed at Mr. Kissack. Mr. Kissack kept the knife in his hand and replied to Sgt. Forst by taking several steps towards Sgt. Forst as he said "*No. Give me my – where are my other knives? I've got like twelve knives you guys [unintelligible].*"

Once Mr. Kissack started advancing toward him, Sgt. Forst pointed his rifle at Mr. Kissack and, with his rifle raised, told Mr. Kissack at least three more times to drop the knife. Each time, Mr. Kissack responded, "*No.*" Mr. Kissack then yelled to the officers, "*Shoot me. Do me a favor. I don't believe in, like, death, like you guys do. Maybe I'll die in the next world, but it will be better than this one, with a bunch of dumba--.*" Mr. Kissack stopped mid-sentence and began a tangent about "cell phones," "Chinese people" and "soldiers in Iraq." At some point, between Mr. Kissack asking about his other knives and mentioning soldiers in Iraq, he moved the knife from his right

hand to his left hand. The exact moment Mr. Kissack switched the knife from one hand to the other is not captured in any of the body camera videos.

About a minute after Sgt. Forst first started talking to Mr. Kissack, K.C., who knew Mr. Kissack and who was also known to the JPD Officers, walked up to him. Based on her slurred speech and body language K.C. also appeared intoxicated. She started yelling to get Mr. Kissack's attention, but he did not immediately respond as he was engaged with Sgt. Forst. Sgt. Forst said to Mr. Kissack, "*Steve, we want to get you to some help;*" "*Put the knife down; I don't want to shoot you today. Put the knife down.*" Mr. Kissack did not respond to Sgt. Forst but began speaking to K.C. During his interview with ABI, Sgt. Forst expressed that he was concerned for the safety of G.S. and K.C. as they were talking with Mr. Kissack throughout the encounter.

The scene became increasingly chaotic over the next several minutes. Mr. Kissack and K.C. alternated between talking to one another and yelling at the officers. G.S. walked back to Mr. Kissack, again putting himself between the officers and Mr. Kissack. Officers continued to order Mr. Kissack to drop the knife while simultaneously yelling at K.C. and G.S. to stop interfering and get out of the way. K.C. and G.S. refused to listen to the officers and, at times, yelled back at the officers. The cross-talk, shouting, and barking and howling by Mr. Kissack's dog increased significantly as the situation escalated.¹⁸ As Mr. Kissack talked with K.C., he gestured and looked towards Officer Phelps and told K.C. "*I'm putting them under arrest. To the death. To the death. [Unintelligible.] They've got to die now because of that. Or we've got to burn each other. Or take each other's eyes out. And then die afterwards, after we've all been dead. That's my religion, because nobody would fuck around at all then.*" Mr. Kissack continued directing his rant at Officer Phelps, "*[Unintelligible] lives, motherfuckers. Just fire, burn to death, total effigy, just because, just because you can't be sure about it.*"

Both JPD Officer Allen and Sgt. Gifford arrived around 1:25 PM. Officer Allen brought a 40 mm "less lethal" launcher out of his trunk along with multiple cartridges for it.¹⁹ Officer Allen briefly spoke with Officer Phelps and then started ordering G.S. and K.C. to get out of the way. After being on the scene for slightly less than a minute, Officer Allen told Sgt. Forst that he had the "40." At almost the same moment, Mr. Kissack told K.C. "*I'm sorry, I'm probably going to die.*"

In response, K.C. became visibly agitated and started yelling at the officers to stop. She said they needed to calm down because she was "de-escalating the situation." Officer Allen shouted to both K.C. and G.S. that they would be arrested for interfering if they did not get out of the way. Mr.

18. The heightened noise level makes the audio difficult to decipher at times.

19. A 40 mm less lethal launcher is a specialized weapon that, in this case, was loaded with "blunt impact projectiles" that are designed to be used to ensure compliance without resorting to deadly force. It is not the same thing as a weapon that fires a "bean bag" round, although both tools are used similarly by various law enforcement agencies. Throughout the remainder of this letter, the terms "40," "40 mm" and "less lethal" all refer to the 40 mm less lethal launcher and munitions.

Kissack then turned to K.C. and G.S. and said, *“Yeah, you guys need to go.”* Sgt. Forst told K.C. he did not want her to get hurt and asked her to move out of the way. She refused.

About 90 seconds after Officer Allen arrived on the scene, Mr. Kissack directed his attention toward Officer Allen, who had the 40 mm less lethal firearm pointed at him. Mr. Kissack looked directly at Officer Allen, started pointing at him, and said, *“Stop pointing that thing at me right now. Because you’re a dumbass and because I’m jealous of your gun, stop pointing it at me right now or I’m going to come kill you.”* K.C. snapped at Mr. Kissack, saying *“Hey!”* and started pointing her finger at him and tried to block him from getting by her in a manner that appeared as if she was telling him to stop what he was doing. Mr. Kissack moved past her, put his backpack on so that it covered the front of his body, and switched his knife from his left hand back into his right hand. Mr. Kissack gripped the knife in his right hand and walked directly towards Officer Allen.

While Mr. Kissack was walking, he kept his attention on Officer Allen and said, *“I’m going to come kill you. I’m going to come kill you. Stop pointing that thing at me right now or I’m going to come kill you. I have to do this because you are pointing a gun at me.”* Officer Allen then fired one of the 40 mm rounds at Mr. Kissack, striking him in his chest. Approximately twelve seconds elapsed between when Mr. Kissack first said, *“Stop pointing that thing at me right now”* to Officer Allen and when Mr. Kissack was hit with the first less lethal round. After the first less lethal round was fired, all of the officers on the scene screamed at Mr. Kissack to stop. Mr. Kissack began to advance towards Sgt. Forst, who yelled loudly multiple times *“Stop right there or I will shoot you!”* Approximately seven seconds after he fired the first 40 mm round, Officer Allen fired a second 40 mm round and again struck Mr. Kissack in the chest.

As the second less lethal round hit Mr. Kissack, Sgt. Forst was still yelling to Mr. Kissack to stop or he would shoot. After the second impact from the less lethal 40 mm round, Mr. Kissack dropped his backpack but kept the knife in his hand. He stepped further into the street, started gesturing and shouting to Sgt. Forst *“Do it! Do it! Kill me!”* Neither of the less lethal rounds appeared to have any effect on Mr. Kissack. Twelve seconds after the second round was fired, Officer Allen fired a third less lethal round and struck Mr. Kissack for a third time.

After Officer Allen struck Mr. Kissack with the third less lethal round, Mr. Kissack turned his attention away from Sgt. Forst and back towards Officer Allen. Officer Kissner’s body camera footage provides the clearest view of the next two seconds: Mr. Kissack pivoted and ran directly at Officer Allen while still holding the knife firmly in an overhand grip. Officer Allen tried to back away to create distance between himself and Mr. Kissack, but fell backward after tripping on the curb and ended up on the ground on the sidewalk. Sgt. Gifford and Sgt. Forst simultaneously discharged their firearms at Mr. Kissack at approximately 1:27:03 PM. After he was hit by the gunshots, Mr. Kissack fell to the ground inches away from where Officer Allen had dropped the

40 mm launcher, and less than six feet away from where Officer Allen had fallen. Officer Allen was still on the ground as Mr. Kissack was shot. Mr. Kissack was still holding the knife in his hand as he fell.

Officer Phelps and Sgt. Forst approached Mr. Kissack with their weapons still drawn. Sgt. Forst saw that Mr. Kissack still had the knife in his hand and was able to kick it away. The officers put Mr. Kissack in handcuffs and began to provide medical attention; they called for medics to respond. While waiting for medics, officers simultaneously started to perform CPR and attempted to find where Mr. Kissack had been shot. The officers were able to locate two gunshot wounds to Mr. Kissack's torso and applied chest seals to them. The officers continued CPR until paramedics arrived and took over.

Autopsy And Toxicology

State of Alaska Medical Examiner Dr. Gary Zientek conducted an autopsy and requested toxicology tests be run on Mr. Kissack's blood. The autopsy showed that Mr. Kissack suffered three gunshot wounds: two to his torso that did not exit his body and one to his left leg that entered and exited his left lower leg.²⁰ The autopsy found that the bullet wounds to Mr. Kissack's torso perforated most of his major organs and were determined to be the cause of Mr. Kissack's death.

Toxicology results showed that Mr. Kissack had a blood concentration of 5200 ng/mL of methamphetamine. The toxicology report notes that "Blood levels of 200-600 ng/mL have been reported in methamphetamine abusers who exhibited violent and irrational behavior." Alcohol,²¹ various metabolites of THC,²² and amphetamine²³ were also present in Mr. Kissack's blood. The toxicology results – particularly the high level of methamphetamine – are consistent with Mr. Kissack's demeanor towards the offices, as well as the fact that Mr. Kissack had little to no reaction when multiple "less lethal" 40-mm rounds struck him.

Scene Evidence

Once medics left to bring Mr. Kissack to the hospital, the scene was secured by members of JPD who were not involved in the incident. ABI was notified of the incident at approximately 2:30 PM, and Investigator Kenton Mayfield and Investigator Adam Hawkins were assigned as the case investigators. Given that the shooting occurred on Front Street, a busy street in downtown Juneau,

20. Due to the relative locations of the two bullet wounds on Mr. Kissack's abdomen, officers on scene believed there was one "through-and-through" wound to Mr. Kissack's torso, not two separate wounds, and described it that way to the paramedics.

21. Mr. Kissack had a blood alcohol level of .014

22. 5.7 ng/mL of 11-Hydroxy Delta-9 THC, 190 ng/mL Delta-9 Carboxy THC, and 4.3 ng/mL Delta-9 THC.

23. 410 ng/mL. In addition to being its own chemical compound, Amphetamine is a metabolite of Methamphetamine.

that it was raining heavily, and that the investigators had to fly to Juneau from Anchorage, ABI requested JPD to have uninvolved officers to process the scene. JPD collected physical evidence, photographed the scene, recorded aerial footage with a drone, and used a laser scanner to capture a 360-degree view of the scene.

Four .40 caliber shell casings were recovered from the scene. This is consistent with Sgt. Gifford's later interview, where he described shooting between three and five times. It is also consistent with the number of bullets found when Sgt. Gifford's firearm was inventoried and processed. Two .308 caliber shell casings and one live .308 caliber cartridge were recovered, which is consistent with Sgt. Forst's statement that he fired two .308 rounds from his rifle and ejected one live cartridge from his rifle as he secured it. It is also consistent with the number of rounds found loaded in Sgt. Forst's rifle when it was processed after the shooting. Three spent .40 caliber less lethal cartridges were recovered from the scene, which is consistent with Officer Allen's statement that he fired three less lethal rounds at Mr. Kissack, as well as the body camera footage showing Mr. Kissack being struck by less lethal rounds three separate times.

Bullet defects were observed in a Toyota Tacoma truck parked on the north side of Front Street. An additional bullet defect was visible in a glass door to a business slightly north of the Toyota Tacoma; the glass in the door was completely shattered. A bullet defect was also seen in the siding of a business located at 234 Front St.; there was a corresponding exit bullet defect found on the interior of the wall and a corresponding bullet defect on the inside drywall consistent with the bullet having traveled through the external wall and hitting an internal wall. Multiple bullet defects were found in a blue Toyota Camry parked about fifteen feet in front of the Toyota Tacoma. The nature and size of the defects indicated to investigators that they were from a single bullet that had fractured into multiple pieces. The location and number of the bullet defects are consistent with the total number of rounds fired and the direction in which Sgt. Gifford and Sgt. Forst fired.

Mr. Kissack's eight-inch black-handled hunting knife, with an approximately four-inch blade, was recovered under the blue Toyota Camry.²⁴ A small, clear, glass jar²⁵ with "SAK," i.e., Mr. Kissack's initials, written on the lid was recovered from the ground next to where Mr. Kissack fell. The jar contained a crystalline substance that was tested by the Alaska State Scientific Crime Detection Laboratory and determined to be 0.14 grams of methamphetamine. Mr. Kissack's backpack was also recovered from the scene. A bullet fragment, Mr. Kissack's clothing, shoes, and identification were recovered from the hospital.

24. Based on officers' reports that an officer kicked the knife after Mr. Kissack fell, this was not the location where the knife originally fell.

25. The jar appears to be one that is used for individual/miniature servings of jam.

Officer Interviews

Both Sgt. Gifford and Sgt. Forst agreed to be interviewed by ABI Investigator Mayfield and Investigator Hawkins. Each provided a narrative of the events and answered follow-up questions and both interviews were recorded. Neither of the officers had watched body camera footage before their interviews. The statements provided by each officer were consistent with the video footage and the evidence collected from the scene.

Both Sgt. Forst and Sgt. Gifford described responding to the “10-69” call for emergency backup from Officer Phelps. Each explained that they had rarely heard an officer use that radio call during their careers; both described it meant they needed to drop what they were doing and respond to a dire situation. Both officers highlighted the fact that the call came from Officer Phelps, who they both knew to be an experienced officer, and therefore heightened their concern. Each reported they were equipped with a body camera that was activated and recording.²⁶

Sergeant Christopher Gifford

Sgt. Gifford told investigators he has been with JPD for 24 years and was with the Hoonah Police Department for a year-and-a-half before that. Sgt. Gifford is both a Crisis Intervention Training Instructor and a firearms instructor.

Sgt. Gifford explained when he heard Officer Phelps radio “10-69,” he was additionally concerned because he knew Officer Phelps was with Mr. Kissack, who had reportedly committed an assault the day prior. Sgt. Gifford told investigators he was aware that Mr. Kissack regularly carried knives and had previously been assaultive towards police officers. He recalled one incident during which he and other officers interacted with Mr. Kissack and Mr. Kissack was “tossing this big knife around” as they tried to speak with him.²⁷ Sgt. Gifford was aware of an incident last winter where Officer Phelps and another officer attempted to arrest Mr. Kissack. Mr. Kissack became combative and tried to grab a large knife, but the officers were able to restrain him before he could do so. Sgt. Gifford also told investigators he understood Mr. Kissack was on probation and had conditions that prohibited him from possessing knives over a specific size.

Sgt. Gifford explained to investigators that upon his arrival, he saw Mr. Kissack on the sidewalk holding something in his hand and saw that Mr. Kissack was speaking with G.S. and K.C.²⁸ and that other officers were shouting commands at all three of them. Sgt. Gifford said he was quickly able to tell that Mr. Kissack was holding a knife and heard Mr. Kissack direct a statement along

26. Due to the speed with which he responded to the call, Sgt. Gifford did not “assign” his body camera to himself before he responded. Therefore, the body camera footage from Sgt. Gifford is labeled as being from Officer Anthony Bates but was in fact Sgt. Gifford’s.

27. Sgt. Gifford could not recall the underlying reason officers were contacting Mr. Kissack on that date.

28. Sgt. Gifford did not recognize K.C. or know her name.

the lines of “I’m going to kill you” to the officers who were giving him orders. Based on what he was seeing, Sgt. Gifford believed that Mr. Kissack had committed multiple counts of felony assault on police officers and that he posed a significant danger to both the officers and the crowd of bystanders that had gathered in the background. Sgt. Gifford told investigators he called over the radio for any available officers to come and assist with crowd control. He said he initially positioned himself slightly off to the side of the other officers, but shifted so that he was closer to the other officers after Mr. Kissack started walking towards them from the sidewalk.

Sgt. Gifford said he saw Officer Allen fire the first less lethal round, which hit Mr. Kissack in his abdomen. Based on his prior experience seeing people get hit with a 40 mm less lethal round, Sgt. Gifford expected Mr. Kissack to drop to the ground. He said he was shocked that the round had almost no effect on Mr. Kissack. He saw Officer Allen fire the second less lethal round and said he was again shocked to see that it did not stop Mr. Kissack at all. After Officer Allen struck Mr. Kissack with the third round, Sgt. Gifford said he saw Mr. Kissack sprint towards Officer Allen with the knife in his hand. It was then that Sgt. Gifford told investigators he made the decision that deadly force was necessary.

Sgt. Gifford told investigators he knew that, at that moment, Officer Allen did not have another 40 mm round loaded and that he also did not have his firearm or any other weapon drawn and available for immediate use. He said Mr. Kissack was holding the knife the way someone who was going to use a knife in a fight would hold it. Sgt. Gifford believed that Mr. Kissack was going to stab Officer Allen unless Sgt. Gifford discharged his firearm at Mr. Kissack. Based on Sgt. Gifford’s observations of the size of Mr. Kissack’s knife, his prior experiences with Mr. Kissack, how Mr. Kissack was behaving that day, and his previous experience with victims of stabbings, Sgt. Gifford believed that Mr. Kissack would kill Officer Allen if he were able to reach him.

Sgt. Gifford recalled rapidly firing between three and five shots at Mr. Kissack. He said he stopped firing when Mr. Kissack dropped to the ground. Sgt. Gifford recalled that one of the other officers was able to kick the knife out of Mr. Kissack’s hand and that it ended up under a car across the street. Once the knife was out of his hand, Mr. Kissack was handcuffed, and Sgt. Gifford and the other officers attempted life-saving measures until paramedics were able to take over.

When asked if he believed any other non-lethal options would have been effective in the situation, Sgt. Gifford explained that he did not believe a taser would have been effective – especially since the less lethal round were ineffective. He also expressed that officers would have needed to be within six feet of Mr. Kissack to properly deploy pepper spray and that they could not have accomplished that safely given the way Mr. Kissack was threatening them with the knife.²⁹

29. During the interviews of Officer Phelps, Officer Allen, and Officer Kissner, each also expressed that they did not believe other less lethal options were available to them given the circumstances. Officer Phelps explained that he believed Mr. Kissack was wearing too much clothing for a taser to be effective and that he would have had to get too close to Mr. Kissack to properly deploy pepper spray. Officer Allen said that he would have had to get

Sgt. Gifford informed investigators that he believed his firearm was loaded with sixteen rounds – fifteen rounds in the magazine and one round in the chamber – before he fired any shots.

Sergeant Branden Forst

Sgt. Forst is a Wildlife Trooper with AST. He has been a Trooper since 2012 and was employed as a civilian with AST for five years before that. Sgt. Forst is currently a member of AST's Critical Incident Response Team, is a pilot vessel operator, and has previously served as a member of AST's SWAT Team. Sgt. Forst had been on an unrelated call and was driving back to his office when he heard Officer Phelps say "10-69" over the radio.³⁰ After hearing that radio transmission, Sgt. Forst notified AST dispatch that he was responding, turned on his lights and sirens, and drove to the location downtown.

Upon arrival, Sgt. Forst saw Officer Phelps and Officer Kissner, both of whom he knew, with their guns pointed at Mr. Kissack.³¹ Sgt. Forst told ABI that once he saw that both Officer Phelps and Officer Kissner had their pistols out, he decided to bring his patrol rifle with him when he got out of his truck.³² He described walking up to a very dynamic situation with both Officer Phelps and Officer Kissner ordering Mr. Kissack to put down his knife and Mr. Kissack refusing.

Sgt. Forst explained to investigators that once he saw Mr. Kissack holding the knife, his thoughts were that it was a serious situation, and that he wanted to do whatever he could to try and get Mr. Kissack to put the knife down because he did not want to shoot Mr. Kissack. Sgt. Forst said Mr. Kissack's body language, movements, and overall demeanor made Sgt. Forst believe that Mr. Kissack was likely to engage in physical violence. Sgt. Forst said that Mr. Kissack's behavior and actions made him concerned for his safety and the safety of others – particularly the civilians who had gathered around, as well as G.S. and K.C.,³³ who were right next to Mr. Kissack.

too close to Mr. Kissack to safely use his baton or properly deploy pepper spray and that, in addition to believing the taser would not have been effective, he did not feel he could have safely transitioned from the 40 mm to the taser. Officer Kissner described that he radioed for less lethal force because he did not feel he could have safely transitioned to his taser and that the proper tactical decision was for him to remain as "lethal overwatch" for the officer who would be deploying less lethal force.

30. Sgt. Forst told investigators that if an officer radios "10-69" it means that it is an emergency and that officer needs help immediately.
31. Sgt. Forst told ABI that he did not recognize Mr. Kissack and to the best of his knowledge, he did not have any prior contacts with Mr. Kissack.
32. As a Wildlife Trooper, Sgt. Forst carries two types of ammunition for his patrol rifle – heavyweight rounds that are generally considered "bear rounds" and lighter weight "regular" rounds. His rifle was loaded with the "regular" rounds at the time he shot.
33. Sgt. Forst did not know G.S. or K.C., so he referred to them as "members of the public" during his interview.

Sgt. Forst said he initially positioned himself near Officer Kissner but realized that it was not a safe position to be in if he needed to discharge his weapon. He said he moved to a position that was closer to Mr. Kissack and ordered Mr. Kissack to put the knife down, but Mr. Kissack would not comply. He described that K.C. and G.S. tried to convince Mr. Kissack to put the knife down and comply with orders, but Mr. Kissack would not listen to them either. Sgt. Forst next recalled that Officer Allen arrived on the scene with what he initially thought was a rifle, but Officer Allen told him that it was a firearm designed to shoot 40 mm less lethal cartridges. Sgt. Forst told investigators that knowing Officer Allen was not armed with deadly force was important to him because it meant (a) there was a less lethal option available to be used, and (b) that Officer Allen didn't have an actual firearm instantly available if the situation further escalated. Sgt. Forst also said that he had been considering whether other less lethal force options were available to him, but once Officer Allen showed up with the 40 mm, he knew he was the only one with a rifle, and believed the safest tactical decision was for him to continue to keep his rifle out.

Sgt. Forst said Mr. Kissack continued to refuse to comply with verbal commands. Sgt. Forst recalled that Mr. Kissack raised his knife, which caused Officer Allen to fire a 40 mm round that hit Mr. Kissack in the chest. Sgt. Forst told investigators that afterward, Mr. Kissack started coming towards him and the other officers in a threatening manner with his knife still raised. He said he recalled thinking that he needed to say something to Mr. Kissack that would get him to stop, so Sgt. Forst started loudly telling Mr. Kissack that he would shoot him if he did not stop. At that point, Sgt. Forst told investigators that he believed Mr. Kissack was going to stab and possibly kill him if he was not stopped.

Sgt. Forst continued to try and back away from Mr. Kissack as Mr. Kissack continued to advance toward Sgt. Forst. He recalled Officer Allen hit Mr. Kissack with at least one more 40 mm round, and he said it, again, did not deter Mr. Kissack. He next recalled seeing Mr. Kissack running full speed at Officer Allen. Sgt. Forst reported he made the decision to use deadly force once Mr. Kissack started running at Officer Allen with his knife raised. Sgt. Forst said he made that decision because he believed Mr. Kissack was going to stab and kill Officer Allen. Sgt. Forst said his concern that Officer Allen's life was in jeopardy was heightened by the fact that, since Officer Allen had been deploying the 40 mm rounds, he did not have his firearm readily available to defend himself.

Sgt. Forst said he recalled firing two shots at Mr. Kissack and said he stopped firing when Mr. Kissack dropped to the ground. He said he and the other officers ran up to Mr. Kissack. Sgt. Forst saw that Mr. Kissack still had the knife in his hand and he kicked it away. Once the knife was out of his hand, Mr. Kissack was handcuffed, and he and the other officers attempted life-saving measures until paramedics were able to take over.

Sgt. Forst informed investigators that he believed his rifle magazine was loaded with eighteen rounds before the incident and that he recalled ejecting a live cartridge from his rifle when he secured it after he had fired.

Witness Officers

The three witness officers, Officer Terry Allen, Officer Lee Phelps, and Officer Timothy Kissner, were also interviewed by ABI. They provided statements consistent with the body camera footage and Sgt. Gifford and Sgt. Forst's statements.

Officer Allen told investigators that when Mr. Kissack ran at him, he was certain that Mr. Kissack intended to stab and kill him. He said he did not believe Mr. Kissack would have stopped until someone stopped him. Officer Allen told investigators that he would have been stabbed by Mr. Kissack if Sgt. Gifford and Sgt. Forst had not shot him first.

Officer Kissner told investigators that during the first part of the interaction with Mr. Kissack, he was in fear for his life and the life of Officer Phelps because he believed Mr. Kissack was going to stab one or both of them. He said he was also in fear for the safety of the nearby members of the public. Officer Kissner expressed that as the encounter continued, he was additionally in fear for the lives of the other officers and members of the public that were nearby. Officer Kissner stated that someone would have been seriously hurt or killed if Sgt. Gifford and Sgt. Forst had not shot Mr. Kissack.

Officer Phelps told investigators that he was in fear of death or serious physical injury, starting when Mr. Kissack jumped up and moved towards him while holding the knife during their initial contact. He stated that he was in fear of harm or death to himself, other officers, and members of the public throughout the interaction. Officer Phelps believed Mr. Kissack was going to stab Officer Allen when Mr. Kissack started charging at him immediately before Sgt. Gifford and Sgt. Forst shot him.

The weapons of Officer Allen, Officer Phelps, and Officer Kissner were each checked by ABI. The live rounds loaded in each of their weapons were counted, and the number of rounds present was consistent with their statements that none of them fired their weapons.

Civilian Witness Interviews

Officers were able to interview ten eyewitnesses to the incident: T.G., G.H., K.S., K.G., D.W., M.W., R.F., A.H, G.S., and K.C.³⁴

34. Investigators have reached out to several other potential eyewitnesses, but have been unable to speak with them by the time this letter is being issued.

T.G.

T.G. and his wife were passengers on a cruise ship docked in Juneau at the time of the incident. He observed most of the incident and captured some of it on video. He and his wife were walking down Front Street as Officer Phelps contacted Mr. Kissack. He saw Mr. Kissack sitting on the ground with the knife as Officer Phelps approached him, heard Officer Phelps ask Mr. Kissack to put the knife down, and heard Mr. Kissack refuse to do so. T.G. said that “looking at [Mr. Kissack’s] face, and his eyes, you could tell something was wrong.” T.G. feared the situation would escalate, so he and his wife started to walk away. Shortly after walking around the corner, they saw police cars arriving and went to see whether what was going on had to do with Mr. Kissack. T.G. then began recording the interaction with his cell phone. T.G. was initially contacted by JPD, who advised him that an investigator from ABI would contact him at a later time. He did not describe his observations of the incident in the phone call with JPD, but said he was willing to speak with the ABI investigator and provide his cell phone video to them.³⁵

G.H.

G.H. works on Front Street and was familiar with Mr. Kissack, as well as Officer Kissner and Officer Allen. At the time of the incident, she was working and in a position to see some of the events as they unfolded. During her interview, G.H. said that she could see the knife that Mr. Kissack was holding, describing it as “kind of long,” with a black handle and silver blade. She said he was waving it around towards the officers and recalled Mr. Kissack telling officers something about the knife being a family heirloom, and that was why he was not going to let them take it. She said the officers repeatedly told Mr. Kissack to put the knife down, and Mr. Kissack repeatedly refused. Right before she heard a “bang, loud pop,” she saw Mr. Kissack “running across the street,” although she could not see if he was running at anyone or anything. Then, she went inside and heard several more “pops” before things seemed “kind of done.” She again looked outside and saw officers providing medical attention to Mr. Kissack.

K.S.

K.S. works in downtown Juneau and began watching the incident after she saw at least two officers on the scene with their guns drawn. She also recorded the incident on her cell phone and provided the video to police. K.S. said she saw Mr. Kissack with a knife, arguing with another homeless guy in a red shirt.³⁶ She said two officers showed up and started yelling at the men to “get off the sidewalk”. She said that while the officers were yelling at the two men, they hugged it out, and things seemed fine. She said she saw Mr. Kissack yelling but could not tell if he was yelling at anyone in particular. She said at that point, the guy in the red shirt started to walk away.

35. As of the writing of this letter, ABI has not been able to contact T.G. for a follow-up interview or obtain the cell phone video.

36. K.S.’s description of the “guy in the red shirt” throughout her interview indicates she was describing G.S.

Eventually, she said she saw five officers arrive on the scene and said they completely surrounded Mr. Kissack. K.S. said she saw the guy in the red shirt and a lady³⁷ walk up to Mr. Kissack. The lady was trying to calm the cops and Mr. Kissack down; the guy was talking to Mr. Kissack. K.S. said that Mr. Kissack was finally starting to calm down, and the guy in the red shirt left.

At that point, K.S. said that Mr. Kissack slowly started walking off the sidewalk toward the officers with his hands behind his back.³⁸ She said she saw officers shoot less lethal rounds while Mr. Kissack had his hands in the air, and then one of the officers fired a lethal round at his arm while he was still holding the knife. K.S. said that Mr. Kissack started to run down the street when one of the officers tripped, and then the rest of the officers shot Mr. Kissack. K.S. began recording approximately 30 seconds after Officer Kissner arrived on scene. The video is consistent with the footage from the body cameras and the other video recovered by investigators. However, as it is partially blocked by parked vehicles, as it is filmed across the street from the incident, and the audio from outdoors is extremely muted and is only audible during portions of the incident because it was filmed through a window.

K.G.

K.G. is a resident of downtown Juneau who was also familiar with Mr. Kissack. K.G. said he heard yelling and then described seeing the incident starting when K.C. was talking to Mr. Kissack. K.G. saw that Mr. Kissack was wearing a backpack on his front and was holding something in his hand, but K.G. could not see what it was from where he was standing. He heard officers yelling at K.C. to get out of the way and repeatedly ordering Mr. Kissack to drop his weapon, or he would be shot. He said it looked to him like Mr. Kissack was “shot with, like, a rubber bullet, and it just seemed to piss him off.” K.G. said it seemed to him like “something happened,” and then “all of the sudden Steven took off towards the cop, and just kind of bolted towards him, and that’s when they shot him.” K.G. further described and repeatedly emphasized that the officers did not shoot Mr. Kissack until Mr. Kissack “*charged one of the cops,*” and was “*going right at him.*”

K.G. told investigators that up until this past February, his interactions with Mr. Kissack were not unpleasant. In February, he and Mr. Kissack had a conversation during which Mr. Kissack told K.G., in essence, that he was going to shoot a bunch of cops because they were screwing his life over, so he was going to drop his dog off with a friend and then go kill the cops. This conversation concerned K.G. enough that he called JPD dispatch to tell them about it. K.G. knew Officer Allen

37. K.S. appears to be describing K.C.

38. As shown on the video footage taken by K.S., Mr. Kissack’s body is blocked from K.S.’s camera view at the time he steps off the sidewalk. However, none of the other videos reviewed show Mr. Kissack putting his hand behind his back as he stepped off the sidewalk or any time between when he stepped off the sidewalk and when he was shot.

and sent him text messages letting him know about the conversation as well.³⁹ K.G. also had Mr. Kissack trespass from his property.

D.W.

D.W. was walking on Front Street when he saw officers speaking with Mr. Kissack, whom he was familiar with from prior contacts. He had intended to go into his building from a door near the officers' location, but he felt the situation looked somewhat tense, so he decided to go into the building a different way. D.W. provided video to investigators, including a video he took from his rooftop overlooking the street and from his store's security cameras. D.W. told investigators that he had watched the video footage multiple times, so he could not be sure what was his personal recollection from the time of the incident versus his recollection of the videos.

The video D.W. took from the roof captures the last few seconds before the shooting, the shooting itself, the immediate attempts to provide Mr. Kissack with medical attention, and ends after medics leave with Mr. Kissack about fifteen minutes after the shooting. Overall, the video is consistent with the body camera footage, witness statements, and other videos. When viewed from above, it appears that Mr. Kissack was running directly at Officer Allen. The video shows that Officer Allen backs up and trips while Mr. Kissack is running at him, after which shots are immediately fired. The security camera footage D.W. provided captures the entire incident, and is also consistent with the body camera footage, witness statements, and other videos. The perspective from this camera angle shows clearly that Mr. Kissack was less than six feet away from Officer Allen at the time he was shot by Sgt. Gifford and Sgt. Forst. D.W. described Mr. Kissack's actions when he started running as "*an attack. It was an attempt to stab an officer while he was down or retreating.*"

M.W.

M.W. is a store owner in downtown Juneau. He did not see how the incident started but saw an officer with his firearm pointed at Mr. Kissack and heard the officer ordering him to drop the knife. M.W. said Mr. Kissack repeatedly refused to comply and became combative with officers. He saw Mr. Kissack move forward towards the officers with his backpack positioned on the front of his body. M.W. said he saw Mr. Kissack get shot with a beanbag round, which did not stop him. M.W. said after Mr. Kissack was hit by the first beanbag round, Mr. Kissack kept moving toward the officers. M.W. said he saw Mr. Kissack drop his backpack and hoped he would drop the knife, but he did not. He said the officer who fired the first beanbag round fired another one and hit Mr. Kissack. M.W. said that officer started backing up to reload, tripped on the curb, and fell backward. Once that officer fell, M.W. said that Mr. Kissack ran directly at him, and that is when he saw the officers shoot.

39. K.G. provided ABI with copies of those text messages.

M.W. told investigators that Mr. Kissack was even-tempered and was not confrontational during their past interactions, which included M.W. asking Mr. Kissack to move from the front of his store. Based on his prior experiences with Mr. Kissack, it seemed to him that Mr. Kissack might have been “on something” during the incident because his behavior was not in line with the behavior M.W. had previously observed. M.W. said that the officers “negotiated” with Mr. Kissack for 10 to 15 minutes before Mr. Kissack got shot. He believed that Mr. Kissack was going to “do something” if he reached the officer on the ground. M.W. additionally described that, from what he could see, once Mr. Kissack started charging at the officer, *“there was no turning back,”* and the officers dispatched their rounds because *“it was something they had to do.”*

R.F.

R.F. did not see the incident itself but heard gunshots and subsequently saw officers performing life-saving measures on Mr. Kissack. R.F. told investigators, *“Once I heard gunshots, I knew it was Steve. He has a mentally – he has a mental disorder, and he was suicidal.”* When asked to explain why he believed Mr. Kissack was suicidal, R.F. said that he had known Mr. Kissack since Mr. Kissack was 21 and that Mr. Kissack had told him multiple times over the years that he was suicidal. He specifically recalled a conversation he had with Mr. Kissack shortly after they met, during which Mr. Kissack told him that he *“was going to die by cop.”* R.F. told investigators, *“It was a matter of time, no matter what community he was - He came here in this town with that intention before. He came before; he had that intention before he even came to Juneau. Steve was planning long before anybody knew.”*

A.H.

A.H. was contacted by JPD Detective Bates on July 24, 2024, when Det. Bates saw A.H. in front of a local coffee shop. Det. Bates asked A.H. about the incident and what he saw. A.H. said that he was by the clock near the intersection of Front Street and South Franklin Street and that he saw pretty much what everyone else saw. A.H. said Mr. Kissack was just twirling his knife and that he told Mr. Kissack to put the knife away and chill out. A.H. told investigators that he was trying to diffuse the situation, but he backed off after the cops told him he could be arrested for interference. A.H. said that Mr. Kissack was yelling “shoot me, shoot me” to the officers and that he tried to get Mr. Kissack’s attention but was unable to do so. A.H. was there when the shots were fired and saw officers performing CPR.

G.S.

G.S. was contacted by JPD Officer Lundquist on July 20, 2024, when Officer Lundquist saw G.H. walking on South Franklin Street. Officer Lundquist asked G.S. about the incident and what he saw. G.S. said that he was there, but things were still blurry. He said it was a misunderstanding. G.S. started to cry as he was talking to Officer Lundquist, told Officer Lundquist that he needed to take a walk, and ended the conversation.

K.C.

K.C. spoke with members of JPD on August 10, 2024, and August 14, 2024. On August 10, 2024, she spoke with Officer Thomas Austin. She told Officer Austin that she was dropped off downtown near the movie theater when she saw Mr. Kissack surrounded by about eight police officers. She heard Mr. Kissack yelling “I’m going to kill you.” K.C. said that there were two or three cops that were “egging him on,” which she described as yelling at and provoking Mr. Kissack. She said that she was able to get Mr. Kissack to calm down by talking to him. She said that Mr. Kissack was acting frantically but wasn’t holding anything in his hands. K.C. said she heard an officer yell “ma’am, get away or you’re going to get shot.” K.C. said that Mr. Kissack started to pull out a knife with his right hand, and when the knife was all the way out, Mr. Kissack walked toward the police officers.

On August 14, 2024, K.C. called JPD asking to speak with an officer and spoke with JPD Det. Shriver. K.C. told Det. Shriver that it was creepy when an officer talked to her about Mr. Kissack because she didn’t understand how the officer knew who she was. K.C. said that she didn’t understand why officers didn’t try to calm Mr. Kissack down. She told Det. Shriver that Mr. Kissack listened to her for two seconds and then she realized she might get shot. K.C. said that one of the officers told her “ma’am, get away, you’re going to get shot.” She knew as soon as Mr. Kissack pulled out a knife that she could be shot; she didn’t want to get shot but didn’t want Mr. Kissack to get shot either.

LEGAL ANALYSIS

Alaska Statute § 11.81.335 outlines circumstances under which any person, whether a civilian or a law enforcement officer, is legally justified in using deadly force. It provides that a person may use deadly force against another person when and to the extent the person reasonably believes the use of deadly force is necessary to defend oneself or others against a threat of imminent serious physical injury or death.⁴⁰ While subsection (c) of the statute provides that generally, a person will not be legally justified in their use of deadly force if they can avoid using deadly force by safely retreating, that subsection does not apply to a police officer acting within the scope and authority of his or her employment.

Alaska Statute § 11.81.370 sets forth additional circumstances under which police officers are legally justified in using deadly force. Under that statute, a police officer is legally justified in the use of deadly force against a person if the officer reasonably believes the person will endanger life or inflict serious physical injury unless that person is arrested without delay. The statute also provides that a police officer is legally justified in the use of deadly force if they reasonably believe

40. AS 11.81.335(a); AS 11.81.340.

the use of deadly force is necessary to arrest someone the officer reasonably believes has committed a felony that involved the use of force against another person.

Thus, under Alaska law, almost any time an individual intentionally shoots at another person, they have used deadly force⁴¹ and *may* be charged with a felony under Alaska law. This is true regardless of whether the shooter is a civilian or a law enforcement officer. However, as discussed above, Alaska provides what is commonly known as a “self-defense” or “justification” defense to any potential defendant in that situation: if the use of deadly force is legally justified, he or she is not guilty of the crime charged. Therefore, the State must analyze not only whether a person used deadly force against another, but also whether that person had a legal justification to use such force.

The analysis of the potential criminal culpability of Sgt. Gifford and Sgt. Forst is governed by the above-referenced laws and is based upon the totality of the circumstances. If each officer reasonably believed his use of deadly force was necessary to prevent serious physical injury or death to themselves or others, each was legally justified in using deadly force, as long as that subjective belief was also objectively reasonable. In other words, to overcome a claim of self-defense at trial, the State would be required to prove beyond a reasonable doubt that each officer did not reasonably believe his action in shooting Mr. Kissack was necessary to defend either himself, other officers, or nearby civilians against serious physical injury or death. Alternatively, each officer’s use of deadly force would be legally justified if he reasonably believed the use of deadly force was necessary to lawfully stop Mr. Kissack after Mr. Kissack was suspected of having committed a felony involving the use of force against a person – or if each officer reasonably believed that Mr. Kissack would otherwise endanger life or inflict serious physical injury unless he was arrested without delay.

Prior to their use of deadly force, each officer saw Mr. Kissack brandishing an eight-inch knife in a threatening way that made them believe Mr. Kissack was willing to use it to attack one or more persons who were in close proximity to Mr. Kissack.⁴² The officers were each engaged for many minutes in trying to de-escalate Mr. Kissack as Mr. Kissack ignored repeated commands and requests to put the knife down. Sgt. Gifford explained that officers could not safely or effectively deploy their tasers or pepper spray, so the only less lethal option available in the situation was 40 mm launcher with less lethal cartridges, which was used. Based on their training and experience, both Sgt. Gifford and Sgt. Forst were shocked that being struck with multiple 40 mm rounds did not force Mr. Kissack to drop the knife or stop him from advancing. Sgt. Gifford told investigators that before the incident, he had seen other individuals struck with 40 mm rounds and that the rounds were usually debilitating. Mr. Kissack’s failure to react to the rounds indicated to Sgt.

41. Intentionally discharging a firearm at someone is a *per se* use of deadly force. AS 11.81.900(b)(16).

42. Placing someone in fear of imminent serious physical injury by means of a dangerous instrument, such as a knife, is a felony-level assault against a person under AS 11.41.220(a)(1)(A).

Gifford that Mr. Kissack would not stop until he finished whatever he had set out to do. Once the 40 mm rounds failed to stop Mr. Kissack, Sgt. Forst expressed to the investigators he was afraid that Mr. Kissack was going to stab and potentially kill him, one of the other officers, or a member of the public.

It was only after Mr. Kissack charged at Officer Allen – who was essentially unarmed at that moment as he attempted to transition to his firearm – with a knife that Sgt. Gifford and Sgt. Forst used deadly force against him. Each officer explained that during the course of their interactions with Mr. Kissack, they had been placed in fear for their own lives as well as those of other officers involved and civilian bystanders, particularly after the 40 mm less lethal cartridges failed to cause Mr. Kissack to drop the knife or stop him from advancing. Both Sgt. Gifford and Sgt. Forst reported that at the time they fired, they specifically believed Mr. Kissack was about to stab Officer Allen, and that he would kill Officer Allen if he reached him. Officer Phelps, Officer Kissner, and Officer Allen also described that based on their view of the situation, Mr. Kissack posed a threat of serious physical injury to themselves, other officers, and the public at the time Sgt. Forst and Sgt. Gifford fired at Mr. Kissack.

The fear reported by the officers was reasonable under the circumstances. Mr. Kissack specifically said that he would die rather than get arrested, indicated that he would fight “to the death,” and announced that “people do need to die.” He declared that he intended to kill one or more of the officers multiple times during the interaction and told K.C. before he charged at Officer Allen that he “was probably going to die.” Seconds before charging Officer Allen with the knife, Mr. Kissack said to Officer Allen directly that he was going to kill him. Mr. Kissack’s actions lined up with his words when he quickly moved towards Officer Allen from a short distance away while wielding a knife. At that point, Mr. Kissack had ignored nearly fifteen minutes of orders from multiple officers and entreaties by friends to drop the knife in an attempt to de-escalate the situation and had disregarded the dozens of warnings he was given that he would be shot if he did not put his knife down.

Applying the law to the circumstances confronted by Sgt. Gifford and Sgt. Forst, it is reasonable that each held a subjective belief that: (a) Mr. Kissack posed an imminent threat of causing serious physical injury or death to themselves, other officers, and nearby civilians; (b) Mr. Kissack would continue to endanger life or inflict serious physical injury upon someone unless he was arrested without delay; and, (c) that deadly force was necessary to stop Mr. Kissack after he had committed felony assault against multiple people. Based on the totality of the circumstances, both officers’ beliefs were reasonable. Mr. Kissack had ignored multiple attempts to resolve the situation peacefully. Instead, he made repeated death threats towards officers while holding a knife. Attempts at less lethal force were unsuccessful. When Mr. Kissack, with the knife still in hand, quickly moved towards an officer who attempted to retreat, it was objectively reasonable for Sgt. Forst and Sgt. Gifford to believe that he posed an imminent threat of death or serious physical


injury to that officer, and other officers and civilians. It was also reasonable to believe that Mr. Kissack presented a danger to others if he was not arrested or stopped. Filing criminal charges against either Sgt. Gifford or Sgt. Forst is, therefore, inappropriate.

CONCLUSION

As both Sgt. Gifford and Sgt. Forst were justified in their use of deadly force; the State will not file criminal charges against either officer in connection with the July 15, 2024, shooting death of Steven Kissack in Juneau, Alaska. You may advise the officers of my decision. Please contact me if you have any questions. I can be reached at (907) 269-6250 or Krystyn.Tendy@alaska.gov.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: 
Krystyn Tendy
Assistant Attorney General
Office of Special Prosecutions

CC:

Clint Campion
Jeremy Conkling